

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0342P

**Individual Income Tax
Calendar Years 1998, 1999, and 2000**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed additional tax because he failed to add back income taxes deducted on his federal return for calendar year 1999. Taxpayer also included in miscellaneous expense, the repayment of a personal loan which was never reported as income in 1999, failed to add back property taxes that he deducted on his Federal return in 1998 and failed to file an income tax return for the year 2000.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests a penalty waiver because of a financial downturn in the past three years in his business. Taxpayer further states that its costs have doubled and he is locked into golf rates that go back five years. Taxpayer states it cannot raise rates to help offset its ever-increasing cost.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each

taxpayer.”

The taxpayer understated his Indiana Adjusted Gross Income by 68.12%, 92.68%, and 100% for calendar years 1998, 1999, and 2000 respectively and has not provided reasonable cause to allow a waiver of the penalty.

FINDING

Taxpayer’s protest is denied.

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